

**A Save Cost Auto Accessories Sdn Bhd & Ors v Etiqa Insurance
Bhd (formerly known as Malaysia National Insurance Bhd)**

B HIGH COURT (ALOR SETAR) — CIVIL SUIT NO 22–25 OF 2010
SEE MEE CHUN JC
31 JANUARY 2012

C *Insurance — Group policy taken out by the company — Company's employees —
Deceased fell from his chair while at workplace — Deceased sustained brain injury
from fall — Whether death resulting from 'an event described in the schedule' —
Whether defendant liable to pay*

D This was a claim on a group personal accident insurance policy ('the policy')
taken by the first plaintiff from the defendant for its employees one of whom
was deceased. The third plaintiff was the wife of deceased and a beneficiary
under the policy and she also claimed as second plaintiff in her capacity as the
E administrator of the estate of deceased. The claim was for RM400,000 which
is the sum insured under the policy. Under the policy, the defendant was to pay
up on 'the Event described in the Schedule' such event being 'bodily injury
caused solely and directly by accidental means which independently of any
other cause shall within 12 calendar months result in death...'. On 6 June 2008
F at about 7.30pm while at his work place, the deceased fell off his chair and his
head hit the cement floor. The plaintiff claimed that the deceased sustained
head injury as a result of the fall resulting in death thereby rendering it an
accident within the terms of the policy for which the defendant was liable to
pay up. The defendant resisted the claim and stated that the brain injury was
G most probably caused by a change to the hemodynamics in the brain brought
about by the spontaneous aneurismal rupture with generalised sub arachnoids
hemorrhage. The cause of death as per the post mortem was 'severe cerebral
oedema and subarachnoid hemorrhage'. The point of contention here was,
what brought about the death — whether the fall or the spontaneous rupture
H of the aneurysm.

Held, allowing the plaintiffs' claim with costs:

I (1) PW1 had given a reasonable explanation for the absence of external
injuries and stated no berry aneurysm was found upon internal
examination of the head. The post mortem report was consistent with the
history of a fall and did not point towards spontaneous rupture of
aneurysm. Although the cause of death was not stated as trauma it could
be as a result of trauma. Her evidence showed death was due to the fall
resulting in trauma (see para 17).

- (2) The statement that the deceased most probably lost his balance due to the sudden changes in the hemodynamics of his brain secondary to the spontaneous rupture of the berry aneurysm causing sub arachnoids hemorrhage (SAH) before he allegedly fell was not consistent with the evidence of the eye witness ('PW2') that before the deceased fell he was '*tidak goyang-goyang*'. The evidence of PW1 was that during the internal examination of the deceased, a head berry aneurysm was not found. PW1's evidence was that the post mortem did not point towards a ruptured aneurysm (see para 19). A B
- (3) Further, PW5's report was based on the case notes and his personal handling of the deceased as his patient and took into account the evidence of PW2 relating to the fall followed by fits. PW5 also stated the symptoms of spontaneous rupture of aneurysm were not present in the deceased (see para 21). C
- (4) The mere fact of PW5 being the doctor in attendance without more did not make him bias. It was not as alleged that PW5 needed to support his earlier conclusion given as PW5 had explained why there were two reports ie as the first report was in a simple format with no room for elaboration. Further, the conclusion in the two reports remained the same (see para 23). D E
- (5) The collective medical evidence of PW1 and PW5 including their reports showed that the deceased died as a result of the fall bringing about subarachnoid haemorrhages due to trauma. Coupled with the medical evidence was the eyewitness account and the deceased being a healthy person. Parts of DW2's opinion were unsupported by the facts. Hence, the plaintiffs had proved the death of the deceased was due to the accident of the fall (see para 28). F

[Bahasa Malaysia summary]

Ini adalah tuntutan polisi kemalangan diri kumpulan ('polisi tersebut') yang diambil oleh plaintif pertama daripada defendan bagi pekerja-pekerjanya di mana salah seorang daripadanya adalah si mati. Plaintif ketiga merupakan isteri si mati dan seorang benefisiari di bawah polisi tersebut dan dia juga menuntut sebagai plaintif kedua dalam kapasitinya sebagai pentadbir harta si mati. Tuntutan tersebut adalah bagi RM400,000 yang merupakan jumlah yang diinsurankan di bawah polisi tersebut. Di bawah polisi tersebut, defendan sepatutnya membayar jika 'the Event described in the Schedule' dan kejadian tersebut adalah 'bodily injury caused solely and directly by accidental means which independently of any other cause shall within 12 calendar months result in death ...'. Pada 6 Jun 2008 pada kira-kira 7.30 petang semasa di tempat kerjanya, si mati terjatuh dari kerusi dan kepalanya terhantuk pada simen lantai. Plaintif menghujah bahawa si mati mengalami kecederaan di kepala kerana terjatuh dengan itu mengakibatkan kematian yang menjadikannya G H I

- A suatu kemalangan dalam rangkuman terma polisi yang mana defendan perlu bayar. Defendan menafikan tuntutan tersebut dan menyatakan bahawa kecederaan otak kemungkinan besar disebabkan oleh perubahan kepada hemodinamik di dalam otak yang disebabkan oleh ‘aneurismal rupture with generalised sub arachnoids hemorrhage’. Sebab kematian di dalam laporan
- B bedah siasat adalah ‘severe cerebral oedema and subarachnoid hemorrhage’. Isu dalam hujahan di sini adalah bahawa, apa yang menyebabkan kematian — sama ada akibat terjatuh atau kepecahan aneurisma secara mengejut.

Diputuskan, membenarkan tuntutan plaintif dengan kos:

- C (1) PW1 telah memberikan penjelasan yang munasabah bagi ketiadaan kecederaan dalaman dan menyatakan tiada *aneurisma berry* yang didapati semasa pemeriksaan dalaman kepala. Laporan bedah siasat adalah konsisten dengan sejarah seseorang yang terjatuh dan tidak menjurus
- D kepada kepecahan aneurisma secara mengejut. Walaupun sebab kematian tidak dinyatakan sebagai trauma ia tidak mungkin disebabkan oleh trauma (lihat perenggan 17).
- E (2) Kenyataan bahawa si mati kemungkinan besar kehilanganimbangan kerana perubahan kepada hemodinamik dalam otaknya adalah sekunder kepada kepecahan *aneurisma berry* secara mengejut yang menyebabkan pendarahan sub araknoid (‘PSA’) sebelum dia dikatakan terjatuh adalah tidak konsisten dengan keterangan saksi (‘PW2’) bahawa sebelum si mati terjatuh dia ‘tidak goyang-goyang’. Keterangan PW1 adalah bahawa semasa pemeriksaan dalaman si mati, *aneurisma berry* tidak ditemui.
- F Keterangan PW1 adalah bahawa bedah siasat tidak menjurus ke arah kepecahan aneurisma (lihat perenggan 19).
- G (3) Selanjutnya, laporan PW5 adalah berdasarkan kepada nota-nota kes dan pengendalian secara peribadi terhadap si mati sebagai pesakitnya dan mengambil kira keterangan PW2 berkaitan dengan keterjatuhannya diikuti dengan ketegangan. PW5 juga menyatakan bahawa simptom kepecahan aneurisma secara mengejut tidak ditemui pada si mati (lihat perenggan 21).
- H (4) Fakta bahawa hanya kerana PW5 adalah doktor yang merawat dan tidak ada apa-apa hubungan lain tidak menjadikannya berat sebelah. Ia tidak seperti yang dinyatakan bahawa PW5 memerlukan sokongan dalam kesimpulan sebelumnya yang diberikan kerana PW5 telah menjelaskan mengapa terdapat dua laporan iaitu kerana laporan pertama adalah dalam format yang mudah dan tidak ada ruang untuk penjelasan.
- I Selanjutnya, keputusan dalam kedua-dua laporan kekal sama (lihat perenggan 23).
- (5) Keterangan perubatan PW1 dan PW5 secara kolektif termasuk laporan-laporannya menunjukkan bahawa si mati meninggal kerana

terjatuh menyebabkan pendarahan subaraknoid kerana trauma. Disatukan dengan keterangan perubatan adalah keterangan saksi dan si mati sememangnya seorang yang sihat. Sebahagian pendapat DW2 tidak disokong oleh fakta. Dengan itu, plaintif-plaintif telah membuktikan kematian si mati adalah disebabkan kemalangan akibat terjatuh (lihat perenggan 28).]

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Notes

For a case on company's employees, see 8(1) *Mallal's Digest* (4th Ed, 2011 Reissue) para 175.

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Cases referred to

KPM Khidmat Sdn Bhd v Tey Kim Sie [1994] 2 MLJ 627; [1994] 3 CLJ 1, SC (dstd)

Pacific Tin Consolidated Corporation v Hoon Wee Thim [1967] 2 MLJ 35, FC (refd)

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Robin Ellis Ltd v Malwright Ltd 68 ConLR 121 (refd)

Toth v Jarman [2006] EWCA Civ 1028, CA (refd)

Poh Peng Seang (Hoe & Ahmad Zaki) for the plaintiff.

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Harikannan Ragavan (Jayadeep Hari & Jamil) for the defendant.

See Mee Chun JC:

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[1] This is a claim on a group personal accident insurance policy ('the policy') taken by the first plaintiff from defendant for its employees one of whom was Low Chee Keong ('deceased') who died on 9 June 2008. The third plaintiff is the wife of deceased and a beneficiary under the policy and she also claims as the second plaintiff in her capacity as the administrator of the estate of the deceased. The claim is for RM400,000 which is the sum insured under the policy. Under the policy (bundle C2-17) the defendant is to pay up on 'the Event described in the Schedule' such Event being 'bodily injury caused solely and directly by accidental means which independently of any other cause shall within 12 calendar months result in death ...'.

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[2] On 6 June 2008 at about 7.30pm while at his work place deceased fell off his chair and his head hit the cement floor. The plaintiffs claim the deceased sustained head injury as a result of the fall resulting in death thereby rendering it an accident within the terms of the policy for which the defendant is liable to pay up. The defendant is resisting the claim and says brain injury was most probably caused by a change to the hemodynamics in the brain brought about by spontaneous aneurysmal rupture with generalised sub arachnoid haemorrhage. The post mortem report has the cause of death as 'severe

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A cerebral oedema and subarachnoid hemorrhage'. The point of contention here is what brought about the death — the fall or spontaneous rupture of the aneurysm.

B [3] The fall was witnessed by an office colleague Lee Soon Wei ('PW2'). PW2, the deceased and another colleague were in the office having a conversation. The deceased was sitting on a chair and while stretching his back fell and hit his head on the cement floor. While lying on the floor he said his head was painful and five minutes later he went into fits and became unconscious. In cross-examination he disagreed the deceased was sitting through the conversation not saying anything. PW2 also said the deceased *tidak goyang-goyang* and while stretching his body he did not say his head or neck was painful.

D EXCLUSION OF THE PLAINTIFFS' DOCUMENTS

E [4] The defendant had sought to exclude the post mortem reports and the medical reports tendered by the plaintiffs through the doctor who did the post mortem, Dr Siti A'ini Syazrah bt Mohamad (PW1, bundles C, 31–32 and D, 1–2) and the medical reports confirmed and/or prepared by Dr Andre Das the doctor who attended to the deceased in Hospital Kajang (PW5, bundles C, 29, 33 and E, 1–2) on the basis these were prepared from medical records and case notes which being primary evidence were not tendered as evidence. The Supreme Court case of *KPM Khidmat Sdn Bhd v Tey Kim Sie* [1994] 2 MLJ 627; [1994] 3 CLJ 1 was referred to where at p 632(MLJ); p 5(CLJ) it is stated:

G Moreover the record book upon which the maker based her summary must be in evidence. In this case where summary was based on the record kept by the respondent such record must be produced except if it can be proved that the original record is lost or destroyed.

H [5] The facts of the above case differ from our instant case as in that case the maker of the summary one Ah Lian was not called as a witness. Here both the makers of the post mortem report and the various medical reports in the form of PW1 and PW5 were called as witnesses to defend the contents of their reports. Accordingly their reports can be admitted as evidence although the weight to be attached to them is yet another matter.

I [6] The defendant had referred to discrepancies in the reports which it said could only be answered by looking at the case notes and medical reports. On the discrepancy in time of admission the deceased was first taken to Hospital Kajang arriving at 8.50pm and subsequently sent to Hospital Serdang for a CT scan before returning back to Hospital Kajang (refer to clinical sequence of events, bundle E, 1). As to the words 'Clinically patient was diagnosed as

subarachnoid secondary to rupture berry aneurysm' being stated in the post mortem report in bundle C, 32 and not being stated in PW5's report, PW5 had explained there were different diagnosis made one of which was ruptured berry aneurysm which was ruled out as not being probable. As to the contents of the post mortem report being changed, PW1 had prepared two reports dated 7 July 2008 and 1 July 2011 of which the words 'Clinically patient was diagnosed as subarachnoid secondary to rupture berry aneurysm. Second opinion CT brain showed bilateral infarct. Active management was initiated, unfortunately patient died on 9th June 2008' were omitted from the second report. PW1 had explained this related to matters not within her personal knowledge and the report should contain her post mortem findings. Upon advice from a forensic pathologist she prepared the second report. This explanation is accepted as the contents of both reports in particular the cause of death remain the same other than the words referred to earlier.

POST MORTEM REPORT

[7] As stated earlier the cause of death as per the post mortem was 'severe cerebral oedema and subarachnoid hemorrhage'. PW1 had stated no berry aneurysm was found in the course of internal examination of the head. There were no bruises to the skull or skull fracture. She agreed if death was caused by trauma it should be stated in the post mortem and it wasn't so stated. She confirmed that someone can have a spontaneous rupture of aneurysm and it can cause death. The absence of external injury such as bruises was explained by PW1 as due to the manner of the fall and seriousness of the injury. She also stated if non hard impact subarachnoid can bleed without subdural and subgaleal being injured.

[8] When asked in re-examination if her post mortem finding is consistent with a patient falling backwards and hitting his head her answer was it can support the history of a fall. It was also explained although the word 'trauma' is not mentioned in the post mortem the fact of deceased falling backwards and head hitting the floor indicate trauma. Although trauma was not stated as the cause of death it could be as a result of trauma. As between trauma and spontaneous rupture of aneurysm the findings do not point towards spontaneous rupture of aneurysm.

SPECIALIST REPORT OF PW5

[9] PW5 had prepared the medical report dated 23 August 2008 (bundle C, 33) and specialist report dated 27 October 2011 (bundle E, 1-2). In both were stated the cause of death as severe head injuries as a result of the fall. The latter report was intended as a specialist report with his opinion while the earlier report was in a simple format which did not allow for elaboration such as

A chronology of events. His reasons for arriving at the cause of death were eyewitness account of deceased falling from chair and hitting his head; post mortem findings of bilateral temporal lobe injuries and petechial haemorrhages of the white matter suggested contra coup injuries and diffuse axonal injuries and these are usually caused by trauma; commonest cause of
B subarachnoid haemorrhages is trauma and no conclusive radiological or post mortem findings supporting other causes of the subarachnoid haemorrhages. His report was based on case notes and his personal handling of the patient. The fall followed by fits were the first points to suggest trauma.

C [10] When referred to the specialist opinion dated 10 October 2008 prepared by Dr Anil Sivasankaran (DW2 consultant neurosurgeon, bundle F, 1–4) where the cause of death is ‘spontaneous aneurysmal rupture with
D generalized sub arachnoid haemorrhage leading to severe/massive cerebral oedema & bilateral brain infarct’ PW5 said this was possible but highly improbable. In the case of spontaneous aneurysmal rupture the patient has pre existing headaches; is in a state of unwell for a few hours; will deteriorate into loss of consciousness and sometimes has fits. PW5 said deceased did not have these symptoms.

E [11] PW5 stated the words ‘Clinically patient was diagnosed as subarachnoid secondary to rupture berry aneurysm’ from the case notes were not included in his report as there had been different diagnosis and this was found not probable. He agreed the post mortem did not determine what
F caused the subarachnoid haemorrhages. When asked if he ruled out ruptured aneurysm he clarified he didn’t rule out anything but just stated the cause of death was subarachnoid haemorrhage due to trauma. Although based on post mortem it could not be determined what caused subarachnoid haemorrhages he could determine probable cause of death based on case notes and it was due
G to trauma. On the medical report dated 2 July 2008 which he confirmed although the word ‘trauma’ was not stated it would be indicated by the words ‘alleged fall’.

SPECIALIST OPINION OF DW2

H [12] At this juncture it is timely to consider what DW2 had to say in his opinion. The opinion was prepared based on medical reports and insurance claim forms. The medical reports were dated 2 July 2008 prepared by one Dr
I Fazilah Hayanti Ahmad (which was confirmed by PW5) and the first post mortem report of PW1.

[13] In p 3 of the opinion under the heading ‘My final conclusion’ it is stated among others as follows:

1) Mr Low Chee Keong had an alleged fall on the 6th June 2008 but was taken to hospital 7 hours later. At the A&E department of Hospital Kajang the history recorded was that he had a fit earlier and was unconscious thereafter.

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The most probable event would point towards Mr Low Chee Keong losing his balance, knocking his head (alleged fall) and had a full Glasgow Coma Scale (GCS) for the first 7 hours post trauma. However on 7th June 2008 at around 3.00 am Mr Low would have thrown a fit and subsequently slipped into a state of coma (unconscious).

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The question now arises whether Mr Low Chee Keong had a spontaneous rupture of the aneurysm and then had an alleged fall or did he fall first causing the aneurysm to rupture. It is well documented that trauma could rupture an aneurysm. However this is not justified by the pathology report that point towards lack of external traumas on the head, body or limbs.

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Thus Mr Low most probably lost his balance due to the sudden changes in the hemodynamics of his brain secondary to the spontaneous rupture of the berry aneurysm causing SAH before he allegedly fell.

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All the pathological findings point towards a spontaneous rupture of the berry aneurysm followed by sub arachnoid haemorrhage (SAH)

[14] In Q&A 8 of his witness statement (D8) DW2 explained the deceased had full GSC for the first seven hours as if he had a lower GSC score earlier than when he was brought in then most likely the deceased would have been brought in to hospital much earlier. He stated in Q&A 10 if someone fell off a chair and had severe head injury it is impossible there are no external signs of injury. In Q&A 12 as to all the pathological findings pointing towards a spontaneous rupture of the berry aneurysm he said for the deceased to have suffered such severe head injuries there must be some trauma to his head that would have been found at the post mortem and since there was none it led him to conclude there was a spontaneous rupture of berry aneurysm.

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[15] In cross-examination DW2 was of the view history of a patient is one of the criteria in arriving at a conclusion. He said it was not possible for his conclusion to be based on wrong facts such as GSC for first seven hours or fitted at 3am. When put a question that trauma can cause head injuries without external signs he said it would be so for minor head injury. He was referred to an article 'Subarachnoid haemorrhage: diagnosis, causes and management' at pp 250–251 on the clinical hallmark of SAH being a history of usually severe headache that started suddenly and other features being period of unresponsiveness, vomiting, neck stiffness and to a question these were not present in deceased he replied 'yes'. At p 252 to the statement 'In patients with direct trauma to the neck or with head injury associated with vigorous neck movement the trauma can immediately be followed by massive haemorrhage' he said this happened to the deceased. He agreed trauma can bring about rupture of aneurysm.

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- A [16] In re-examination DW2 said the features of SAH may not be present in a patient with severe rupture as he would have become unconscious. When he prepared his opinion he did not have PW5's report dated 27 October 2011.

FINDING ON REPORTS AND OPINION

- B [17] PW1 had given a reasonable explanation for the absence of external injuries and stated no berry aneurysm was found upon internal examination of the head. The post mortem report was consistent with the history of a fall and did not point towards spontaneous rupture of aneurysm. Although the cause of death was not stated as trauma it could be as a result of trauma. Her evidence shows death was due to the fall resulting in trauma.
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- D [18] DW2's statement in his opinion that the deceased had a full GCS for the first seven hours post trauma and on 7 June 2008 at around 3am would have thrown a fit and subsequently slipped into a state of coma (unconscious) is not supported by the medical reports he had referred to. In the medical report dated 2 July 2008 under history it was noted 'alleged fall with seizure and became unconscious on 06/06/2008 7.30pm' and the post mortem where it is stated 'On 7 June 2008 he fell backwards from a rocking chair. Five minutes later he fitted and post ictally he was unconscious'. There is also no mention of full GCS for the first seven hours post trauma.
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- F [19] The statement that the deceased most probably lost his balance due to the sudden changes in the hemodynamics of his brain secondary to the spontaneous rupture of the berry aneurysm causing SAH before he allegedly fell is not consistent with the evidence of the eye witness (PW2) that before the deceased fell he was 'tidak goyang-goyang'. The evidence of PW1 is that during the internal examination of the deceased head berry aneurysm was not found. PW1's evidence was that the post mortem did not point towards ruptured aneurysm.
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- H [20] The statements of DW2 as above are therefore based on unproven facts. In *Pacific Tin Consolidated Corporation v Hoon Wee Thim* [1967] 2 MLJ 35 it was stated at p 37:

- I ... in all cases in which opinion evidence is receivable, whether from experts or not, the grounds or reasoning upon which such opinion is based may properly be inquired into. Where the opinion of experts is based on reports of facts, unless within the experts' own knowledge must be proved independently.

- [21] Here DW2's opinion was based on medical reports and insurance claim forms. The statements were not within his personal knowledge and based on facts not proven and not in accord with the eyewitness account. On the other

hand PW5's report is based on the case notes and his personal handling of the deceased as his patient and took into account the evidence of PW2 relating to the fall followed by fits. PW5 also stated the symptoms of spontaneous rupture of aneurysm were not present in the deceased.

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[22] As to the pathological findings pointing towards a spontaneous rupture of the berry aneurysm DW2 attributed this to the lack of trauma to the head. However as explained by PW1 the absence of external injury such as bruises can be due to the manner of the fall. PW1 also stated if impact was not hard subarachnoid can bleed without subdural and subgaleal being injured. Thus even without external signs there can be trauma. Although the word 'trauma' is not stated in the post mortem and specialist report, as explained by both PW1 and PW5, it is evident by the fact of deceased falling backwards and head hitting the floor and the words 'alleged fall'.

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BIAS OF PW5

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[23] It was submitted PW5 as the doctor in attendance was biased. The cases of *Toth v Jarman* [2006] EWCA Civ 1028 and *Robin Ellis Ltd v Malwright Ltd* 68 ConLR 121 were referred to. In *Toth* the issue of non-disclosure on conflict of interest in the form of membership of the Cases Committee of the Medical Defence Union was raised. According to the defendant *Robin Ellis* states expert evidence is the independent product of the expert uninfluenced as to and content by the exigencies of litigation and an expert witness should not omit to consider material facts which could detract from his concluded opinion. Here all parties and the court were aware PW5 was the doctor attending to the deceased. The mere fact of PW5 being the doctor in attendance without more does not make him biased. It was not as alleged that PW5 needed to support his earlier conclusion given as PW5 had explained why there were two reports as the first report was in a simple format with no room for elaboration. Further the conclusion in the two reports remained the same. As to not having stated what was in the case notes of 'Clinically patient was diagnosed as subarachnoid secondary to rupture berry aneurysm' this was explained as being part of different diagnosis which was considered and eventually ruled out. In the circumstances I do not find PW5 biased.

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MEDICAL LITERATURE

[24] Although the article 'Subarachnoid haemorrhage: diagnosis, causes and management' states 'the cause of SAH is a ruptured aneurysm in 85% of cases' the clinical hallmarks of severe headache, period of unresponsiveness, vomiting and neck stiffness did not manifest themselves in deceased. In fact PW2 had given evidence the deceased was not quiet during their conversation prior to the fall and had not complained of any neck or head stiffness. Although in

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- A re-examination DW2 said the features of SAH may not be present in a patient with severe rupture as he would have become unconscious the fact of the matter is the deceased had not exhibited these features prior to becoming unconscious. Further the deceased was a healthy person as gathered from the evidence. PW2 who was his colleague for five to six years said the deceased had never seen a doctor for medical treatment or undergone any operation.
- B According to Leong Hooi Chin (PW3, human resource manager of the first plaintiff) the deceased had been working with the company since 21 March 1999 and from the records he had not undergone any operation or treatment at a hospital. In 2008 the deceased had not taken any medical leave.
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[25] The aforesaid article also recognises that 'trauma and spontaneous SAH are difficult to disentangle. Patients may be found alone after having been beaten in a brawl or hit by a drunken driver who made away without external wounds to indicate an accident' (p 251).

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- [26] PW5's statement that petechial haemorrhages of the white matter suggested contra coup injuries and diffuse axonal injuries and these are usually caused by trauma is supported by the article 'Subarachnoid hemorrhage traumatic' where it is noted 'the subarachnoid hemorrhage may be confined to focal areas which have been exposed to stresses during impact such as the frontal poles in an individual, who falls and strikes the back of his head giving rise to contracoup stresses' and 'traumatic subarachnoid hemorrhage typically occurs in association with other traumatic injuries to the brain such as ... diffuse axonal injury'.
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OTHER MATTERS

- G [27] It was also raised by the defendant PW5 stated the post mortem did not determine what caused the subarachnoid haemorrhages and he didn't rule out ruptured aneurysm. This was clarified in re-examination that he could determine what caused the subarachnoid haemorrhages from the case notes. As to him not ruling out ruptured aneurysm he hadn't ruled out anything but was stating the cause of death to be subarachnoid haemorrhages due to trauma.
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CONCLUSION

- I [28] The collective medical evidence of PW1 and PW5 including their reports show the deceased died as a result of the fall bringing about subarachnoid haemorrhages due to trauma. Coupled with the medical evidence is the eyewitness account of the fall and the deceased being a healthy person. Parts of DW2's opinion as referred to earlier were unsupported by the

facts. The plaintiffs have proven the death of the deceased was due to the accident of the fall and the claim is allowed with costs. A

Plaintiffs' claim allowed with costs.

Reported by Ashgar Ali Ali Mohamed B

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